

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**Andrew H. Stevens, et al.,**

**Plaintiff,**

**v.**

**City of Columbus, et al.,**

**Defendant.**

**Civil Action 2:20-cv-1230**

**Judge Marbley**

**Magistrate Judge Deavers**

**RULE 26(f) REPORT**

Pursuant to Federal Rule of Civil Procedure 26(f), a meeting was held on August 5, 2020 and was attended by:

Maurice A. Thompson, counsel for plaintiff(s) Andrew H. Stevens, et al.,

\_\_\_\_\_, counsel for plaintiff(s) \_\_\_\_\_,

Janet R. Hill Arbogast, counsel for defendant(s) City of Columbus, et al.,

\_\_\_\_\_, counsel for defendant(s) \_\_\_\_\_,

Counsel represent that, during the meeting, they engaged in a meaningful attempt to meet and confer on the matters outlined below.

1. **CONSENT TO MAGISTRATE JUDGE**

Do the parties consent to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c)?

\_\_\_\_ Yes    ☒ No

2. **INITIAL DISCLOSURES**

Have the parties agreed to make initial disclosures?

☒ Yes    \_\_\_\_ No    \_\_\_\_ The proceeding is exempt under Rule 26(a)(1)(B)

If yes, such initial disclosures shall be made by **September 30, 2020**.

3. VENUE AND JURISDICTION

Are there any contested issues related to venue or jurisdiction?

       Yes        X   No

If yes, describe the issue:

If yes, the parties agree that any motion related to venue or jurisdiction shall be filed by \_\_\_\_\_.

4. PARTIES AND PLEADINGS

- a. The parties agree that any motion or stipulation to amend the pleadings or to join additional parties shall be filed by **September 1, 2020**.
- b. If the case is a class action, the parties agree that the motion for class certification shall be filed by \_\_\_\_\_.

5. MOTIONS

- a. Are there any pending motion(s)?

  X   Yes             No

If yes, indicate which party filed the motion(s), and identify the motion(s) by name and docket number:

**Plaintiffs' Motion to Certify Important Questions of State Constitutional Law to the Ohio Supreme Court, filed June 10, 2020 as Doc. #23.**

- b. Are the parties requesting expedited briefing on the pending motion(s)?

       Yes        X   No

If yes, identify the proposed expedited schedule:

Opposition to be filed by \_\_\_\_\_; Reply brief to be filed by \_\_\_\_\_.

6. ISSUES

Jointly provide a brief description of case, including causes of action set forth in the complaint, and indicate whether there is a jury demand:

**Plaintiffs have challenged the requirement that landscaping be “compatible” within historic districts of the City of Columbus and the penalties associated with incompatible landscaping on constitutional grounds (Due Process and Excessive Fines). The Court has already determined the Due Process Claims, and only the Excessive Fines Clause remains for determination.**

7. DISCOVERY PROCEDURES

a. The parties agree that all discovery shall be completed by **October 30, 2020**. The parties agree to schedule their discovery in such a way as to require all responses to discovery to be served prior to the cut-off date, and to file any motions relating to discovery within the discovery period unless it is impossible or impractical to do so. If the parties are unable to reach an agreement on any matter related to discovery, they are directed to arrange a conference with the Court. To initiate a telephone conference, counsel are directed to join together on one line and then call the Magistrate Judge's chambers or provide the Court with a call-in number.

b. Do the parties anticipate the production of ESI? \_\_\_\_\_ Yes   X   No

If yes, describe the protocol for such production:

c. Do the parties intend to seek a protective order or clawback agreement? **No**

If yes, such order or agreement shall be produced to the Court by \_\_\_\_\_.

8. DISPOSITIVE MOTIONS

a. Any dispositive motions shall be filed by **November 16, 2020**.

b. Are the parties requesting expedited briefing on dispositive motions?

  X   Yes      \_\_\_\_\_ No

If yes, identify the proposed expedited schedule:

Opposition to be filed by **December 14, 2020**; Reply brief to be filed by **December 28, 2020**.

9. EXPERT TESTIMONY

a. Primary expert reports must be produced by \_\_\_\_\_.

b. Rebuttal expert reports must be produced by \_\_\_\_\_.

10. SETTLEMENT

Plaintiff(s) will make a settlement demand by **not applicable**. Defendant will respond by \_\_\_\_\_. The parties agree to make a good faith effort to settle this case. The parties understand that this case will be referred to an attorney mediator, or to the Magistrate Judge, for a settlement conference. The Court refers cases to settlement throughout the year. The parties request the following month and year: \_\_\_\_\_ 20\_\_\_\_

In order for the conference to be meaningful, the parties agree to complete all discovery that may affect their ability to evaluate this case prior to the settlement conference. The parties understand that they will be expected to comply fully with the settlement conference orders which require, *inter alia*, that settlement demands and offers be exchanged prior to the conference and that principals of the parties attend the conference.

## 11. RULE 16 PRETRIAL CONFERENCE

Do the parties request a scheduling conference?

\_\_\_\_ Yes, the parties would like a conference with the Court prior to it issuing a scheduling order. The parties request that the conference take place \_\_\_\_\_ in chambers \_\_\_\_\_ by telephone.

**X** No, a conference is not necessary; the Court may issue a scheduling order after considering this Report.

## 12. OTHER MATTERS

Indicate any other matters for the Court's consideration:

**Defendants request a deadline of September 3, 2020, to answer Plaintiffs' Complaint, and Plaintiffs do not oppose this.**

Plaintiffs maintain some concern about whether the Court has adequately addressed Plaintiffs as-applied claims, such that a remand for further consideration of the evidence may be triggered upon an appeal. Defendants do not share Plaintiffs concern. The Parties agree that no order of this Court is final and appealable until Plaintiffs' Excessive Fines Clause claim is determined.

Attorney for Plaintiff(s):

Maurice A. Thompson  
Counsel for Plaintiffs  
Bar #0078548

Counsel for \_\_\_\_\_  
Bar # \_\_\_\_\_

Attorney for Defendant(s):

Janet R. Hill Arbogast  
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Andrew D. M. Miller  
Counsel for Defendants  
Bar #0074514

Date: August 6, 2020